

## Clark County District Court



## SMALL CLAIMS COURT INFORMATION

### INTRODUCTION

The Small Claims Department of District Court allows a person or business with a legal dispute to sue without hiring an attorney. There are no juries, and attorneys are not allowed to represent either party unless permission is granted by a judge. Small Claims Court only handles claims for money for an amount up to \$4,000.

### MEDIATION

The best way to solve a dispute is to contact the other person and negotiate a solution. If this approach has not worked and the problem involves a **neighbor**, you can contact Community Mediation Services for free assistance to resolve the dispute. If you file a Small Claim, your case may be referred to a mediator to help you resolve the dispute prior to trial for no additional charge. Mediation is fast, confidential, and non-adversarial. When you file your claim or answer, you may simply check the box on the "Alternative to Small Claims Court" indicating that you are willing to try mediation. For questions about **Small Claims** mediation, please contact Community Mediation Services at (360) 619-1146

### DEFINITION OF TERMS

Plaintiff	The person who brings the action.
Defendant	The person defending the action.
Service.	Delivery of a copy of the Notice of Small Claim and Summons to the Defendant
Affidavit	A sworn notarized statement.
Court Costs	The filing fee plus the cost of serving the papers.

### FILING A CLAIM

A notice of Small Claim form is provided by the Court. You are required to sign the Notice in the presence of the clerk, unless otherwise instructed by the Court. The clerk may assist the parties with procedure, but are not allowed to give legal advice or to predict how the judge might rule in a given situation.

At the time of filing, the plaintiff must pay a fee of \$25, which is non-refundable. This can be paid by check, payable to District Court, or in cash. If you win your case, you are entitled to recover your costs of filing and service fees. The Defendant must be a

resident of and served in Washington, or if the Defendant is a business it must be located and served in Washington. If the claim is brought because of an auto accident, it may be filed in the county the accident occurred.

The Plaintiff is furnished with a copy of the claim form for his or her records, and given a copy of the claim form to be served upon the defendant. It is the responsibility of the Plaintiff to accurately identify the Defendant (either as an individual, a corporation, or as one doing business under an assumed name) and provide a phone number.

### **SERVICE**

#### **IT IS THE RESPONSIBILITY OF THE PLAINTIFF TO MAKE ARRANGEMENTS TO HAVE THE CLAIM FORM SERVED UPON THE DEFENDANT.**

Service of the claim form can be accomplished by any of the following. A fee may be involved.

1. Sheriff's Office.
2. A process server (some are listed in the yellow pages).
3. Any person of legal age (18) who is not personally involved in the case. An affidavit form for this type of service is available from the clerk.
4. By mailing the copy to the defendant by registered or certified mail with a return receipt requested. This type of service is valid only if the person you are suing signs the post office receipt, and the receipt is then filed in court.

The plaintiff cannot personally serve the copies of the claim form. When service has been accomplished, your proof of service must be filed with the court. Service must be obtained at least 10 days before the answer is due.

### **AMENDING A CLAIM**

If service has not been obtained 10 days before the answer is due, an amended claim may be filed at no additional cost. Forms are available at the counter in District Court Administration.

### **ANSWERING A TRIAL SETTING**

On the Notice of Small Claim, the clerk indicates the date by which an answer containing a denial of part or all of the Plaintiff's claim; the case will be set for trial within 90 days from the date of Answer. If the Defendant admits the claim, there will be no trial date set and the judgment will be granted upon the Plaintiff's written request. If the Defendant fails to answer by the indicated date, the Plaintiff, again upon submitting a written request, will be granted a default judgment against the Defendant for the amount of the

claim plus court costs.

### **FILING A COUNTERCLAIM**

The Defendant may counterclaim against the Plaintiff for an amount up to \$4,000. Forms are available at the counter. The Plaintiff is entitled to notice of such counterclaim at least 21 days prior to the trial date. The fee for the counterclaim is \$25.

### **SETTLEMENT**

It is recommended that either the Plaintiff or the Defendant contact the other party prior to the trial date to try and settle their differences. If the claim is settled before the trial, the Plaintiff should notify the court in writing so the case may be dismissed.

### **PREPARING FOR TRIAL**

To prepare for trial, collect all papers, photographs, receipts, estimates, canceled checks, and other documents that concern the case. **If you are planning on presenting to the judge any of the listed information, make a copy for the judge and the other party in your case. The judge's copy must be brought to court. The other copy must be mailed to the party at least ten days before your trial date.** It may be helpful to write down ahead of time the facts of the case in the order that they occurred. This will help you to organize your thoughts and make a clear presentation of your story to the judge.

You should contact any witnesses who are able to support your case and ask them to appear at trial. Witnesses must have personal knowledge of the facts about which they are asked to testify. ("Hearsay," something a witness has only heard from someone else, might not be allowed as evidence on your claim or defense.)

It is also a good idea to sit through a small claims court session before the date of your hearing. This will give you first-hand information about the way small claims cases are heard.

If either party finds they are unable to attend the scheduled court date, the judge, upon a timely written request showing good cause, may grant a resetting of the trial date. If the reset is granted, both parties will be notified by mail. Please be sure to notify the Court of any change of address.

### **WHAT HAPPENS AT TRIAL**

When you arrive at the Courthouse, check in on the 2nd floor at the desk in the lobby. You will be directed to the correct courtroom. When your case is called, come forward to the counsel table, the Judge will swear in all the parties and witnesses.

Plaintiffs have the burden of proving their claim. Defendants do not have to prove they do not owe the money. Plaintiffs must prove their case and show how they arrived at the

amount of the claim.

The judge will ask Plaintiffs to give their side first. When the Plaintiff is done presenting his/her case, the judge will ask the Defendant(s) for their side of the issue(s). Be brief and stick to the facts. The Judge may interrupt you with questions, but do not interrupt the other party while they are speaking. Remember the trial is your only opportunity to present your case.

After both sides have been heard, the judge will normally announce the decision. If more time is needed to study the case, the judge will issue a decision in writing within a few weeks.

THE LOSING PARTY HAS 30 DAYS TO SATISFY THE JUDGMENT. It is the duty of the losing party to pay the prevailing party without delay. While both parties are present, either party can request the judge to order a payment plan. After the prevailing party receives payment, they MUST notify the Court in writing that the judgment has been satisfied. This may be a brief note written by the plaintiff, or satisfaction forms are available at the counter in District Court Administration.

If the Defendant fails to appear for trial, the plaintiff will be granted a default judgment for the amount of the claim proved in court, provided the Plaintiff can show that the Defendant was served with the Notice of Small Claim. The judge cannot award an amount that is greater than the amount that was originally requested.

If the Plaintiff fails to appear, the judge will dismiss the case.

### **SETTING ASIDE DEFAULT OR DISMISSAL**

If a party fails to appear for a hearing, a default judgment or dismissal of the action will be entered.

The absent party may file a motion to have the judgment or dismissal set aside. This motion must be filed within 30 days of the date of entry of judgment and/or dismissal, and must show good cause why the judgment or dismissal should be set aside.

A reset fee of \$50.00 must be paid to the court before the party's motion to set aside the judgment and/or dismissal will be set for hearing. This fee is forwarded to the opposing party.

### **COLLECTION OF JUDGMENT**

If no appeal is taken and the judgment is not paid within 30 days or in the time set by the judge in the payment plan, you may request, in writing, that the judgment be entered on the civil docket for the court. When the case is transferred, you will receive a civil case number. THE COURT DOES NOT COLLECT THE JUDGMENT FOR YOU. After the case is transferred, you may then proceed with any of the following options.

1. WRIT OF GARNISHMENT: This is an order issued to the losing party's bank or employer, requiring a certain amount of the losing party's money to be given to the winning party. It may be necessary for you to have the help of an attorney to file this writ.
2. WRIT OF EXECUTION: This is an order to the sheriff to seize certain property of the losing party, sell it and pay you from the proceeds of the sale. Again, it may be necessary for you to have the help of an attorney to file this writ.
3. COLLECTION AGENCY: The winning party can turn over the judgment to a state-licensed collection agency. If the agency collects the judgment, it usually keeps from one-third to one-half of the amount as its fee.
4. REAL ESTATE LIEN: Upon payment of \$6 you can receive a transcript of the judgment which you can file in Superior Court for a fee of \$15. When this is done, it places a lien against all real estate in the name of the losing party, which is located in the county.

ONCE THE JUDGMENT HAS BEEN SATISFIED, THE PLAINTIFF MUST FILE WITH THE COURT A LETTER INDICATING THE JUDGMENT HAS BEEN SATISFIED.

### **TO APPEAL A DECISION**

The party who files a claim or counterclaim may appeal if the amount claimed was \$1,000 or more. A party who defends an action may file an appeal when the amount claimed is \$250 or more. If an appeal is taken to the Superior Court, the appealing party is required to follow the procedures set out in the Revised Code of Washington (RCW) 12.36.

The following steps must be taken *within* 30 days of the entry of judgment:

1. Prepare a written Notice of Appeal and file it with the District Court.
2. Serve a copy of that notice on the other parties, and file an acknowledgment of, or affidavit of service with the District Court.
3. Deposit with the District Court the \$110.00 filing fee, either in cash, money order, or certified check, made payable to the District Court and pay a \$40 appeal preparation fee.
4. Post a bond, (cash or surety) in a sum equal to twice the amount of the judgment with costs, or twice the amount in controversy, whichever is greater, at the District Court.

Within 14 days of filing the Notice of Appeal, the entire record will be transmitted to the Superior Court Clerk, who will assign a new case number. The District Court Clerk will advise the appealing party of that number. At this time you may request that the Superior Court Clerk suspend enforcement of the judgment until after the appeal is heard. Once the judgment has been appealed to the Superior Court, enforcement of any judgments entered in the case will be handled in the same manner as any other Superior Court

judgment. If you are ready to proceed with trial, you may contact Superior Court Administration and ask for a Notice to Set for Trial form. All action in Superior Court will be the responsibility of the person filing the appeal, and it may be necessary to seek the advice of an attorney on how to proceed.

**Clark County District Court  
Small Claims Department  
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